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Attorneys for Defendant
Christopher Black

UNITED STATES DISTRICT COURT

FOR THE SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA Plaintiff, v. CHRISTOPHER BLACK Defendant.	**CASE NO. 08CR0274-02-LAB** **NOTICE OF MOTION AND MOTION TO CONTINUE PRETRIAL MOTION FILING DEADLINE AND MOTION HEARING DATE** **Date: July 28, 2008** **Time: 2:00 p.m.**

TO: KAREN P. HEWITT, UNITED STATES ATTORNEY, AND
CHRISTOPHER P. TENORIO, ASSISTANT UNITED STATES ATTORNEY:

PLEASE TAKE NOTICE that on Monday, July 28, 2008 at 2:00 p.m. or as soon thereafter as counsel may be heard, the above named Defendant, by and through his counsel, will present the following Motion to Continue Pretrial Motion Filing Deadline and Pretrial Motion Hearing Date.

MOTION

Defendant, Christopher Black, by and through his attorneys of record, John P. Rogers and Mark F. Adams, moves this court for an extension for time in which to file pretrial motions and to continue the evidentiary and motion hearing presently scheduled for July 28, 2008.

This Motion is made and based upon this Notice of Motion, the attached Memorandum of Points and Authorities, all files and records in the above captioned case, and on any matters which may come to this Court's attention prior to or at the time of hearing this motion.

Dated: July 11, 2008

/s/ John P. Rogers
JOHN P. ROGERS

Dated: July 11, 2008

/s/ Mark F. Adams
MARK F. ADAMS
Attorneys for Defendant
Christopher Black

UNITED STATES DISTRICT COURT

FOR THE SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA Plaintiff, v. CHRISTOPHER BLACK Defendant.	))))))))))	**CASE NO. 08CR0274-02-LAB** **CERTIFICATE OF SERVICE**

IT IS HEREBY CERTIFIED THAT:

I, Mark F. Adams, am a citizen of the United States and am at least eighteen years of age. My business address is 964 Fifth Avenue, Suite 335, San Diego, California 92101.

I am not a party to the above-entitled action. I have caused service of the defense MOTION TO CONTINUE PRETRIAL MOTION FILING DEADLINE AND MOTION HEARING DATE on the following parties by electronically filing the foregoing with the Clerk of the United States District Court using its ECF System, which electronically notifies the following individuals:

Christopher P. Tenorio, Attorney for the Government, christopher.tenorio@usdoj.gov

I declare under penalty of perjury that the foregoing is true and correct and that this proof of service was executed on July 11, 2008 at San Diego, California.

/s/ Mark F. Adams
MARK F. ADAMS

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Attorneys for Defendant
Christopher Black

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA, Plaintiff, v. CHRISTOPHER BLACK Defendant.	**CASE NO. 08CR0274-02-LAB** **POINTS AND AUTHORITIES IN SUPPORT OF MOTION TO CONTINUE PRETRIAL MOTION FILING DEADLINE AND MOTION HEARING DATE** **Date: July 28, 2008** **Time: 2:00 p.m.**

STATEMENT OF THE CASE

On May 23, 2008 a ten count superceding indictment was returned charging a Conspiracy to Engage in Sex Trafficking of Children, Conspiracy to Coerce and Entice Juveniles into Prostitution, and eight substantive counts of Recruiting and Enticing Juveniles into Prostitution, all in violation of Title 18 U.S.C. §§ 371, 1591, and 2422. The superceding indictment charges Mr. Black in both conspiracy counts and four of the substantive charges. Mr. Black was arrested on May 29, 2008 in the Western District of Texas. He was removed to this District and arraigned at his first appearance in Court on June 27, 2008. The undersigned counsel first appeared on Mr. Black's behalf at a detention hearing on July 2, 2008. Mr. Black has pled not guilty to all counts in which he is named. Defendant filed his motion for discovery on July 9, 2008. As of the date of filing this motion to continue, no discovery has been received by counsel of record.

DEFENDANT'S REQUEST

______The Sixth Amendment reference to the assistance of counsel has been interpreted by the courts to mean effective assistance of counsel. *Cooper v. Fitzharris*, 586 F. 2d 1325 (9th Cir. 1978) cert. den., 440 U.S. 974. Mere physical presence of an attorney does not fulfill the Sixth Amendment entitlement of effective assistance of counsel. *Javor v. United States*, 724 F.2d 831 (9th Cir. 1984).

The Sixth Amendment right to counsel implies much more than a minimum level of professional competence. Undivided loyalty and fidelity of commitment are the guiding principles in this important area of Sixth Amendment jurisprudence. *United States v. Alvarez*, 580 F.2d 1251 (5th Cir. 1978).

An insistence upon expeditiousness in the face of a justifiable request for delay violates the right of the effective assistance of counsel. *Morris v. Slappy*, 461 U.S. 1 (1983). *Ungar v. Sarafite*, 376 U.S. 575, 589 (1964). An insistence upon expeditiousness in the face of a justifiable request for delay can render the right to defend with counsel an empty formality. *Chandler v. Fretag*, 348 U.S. 3 (1954). There are no mechanical tests for deciding when a denial of a continuance is so arbitrary as to violate due process. The answer must be found in the circumstances present in every case, particularly in the reasons presented to the trial judge at the time the request is denied. *Nilva v. United States*, 352 U.S. 385 (1957); *Torres v. United States*, 270 F.2d 252 (9th Cir., 1959). The court may grant a motion for continuance "for good cause," upon a party's motion. Rule 45, Federal Rules of Criminal Procedure. See also, *Gavino v.*

MacMahon,, 499 F.2d 1191 (C.A.2d, 1974) (denial of Defendant's request for a reasonable time to prepare for trial constituted an abuse of discretion).

Defendant requests a continuance of at least one month to allow his counsel to have sufficient time to receive and meaningfully review all discovery in this case, as well as sufficient time to adequately research and brief any pretrial motions appropriate in the above-styled case. As Defendant's counsel have not received any discovery to date, counsel will not have adequate time, should they receive complete discovery between now and Monday, to prepare and brief any evidentiary and/or constitutional issues raised by the discovery to meet this court's Monday, July 14th pretrial motion filing deadline.

CONCLUSION

For the foregoing reasons, and based upon the argument of counsel, Defendant Christopher Black respectfully requests that this court grant him an extension for time of at least four weeks to his deadline in which to file pretrial motions, to August 11, 2008, and to continue the evidentiary hearing presently scheduled for July 28, 2008 to August 25, 2008, or to alternate later dates convenient to this court's schedule.

Dated: July 11, 2008 /s/ John P. Rogers
JOHN P. ROGERS

Dated: July 11, 2008 */s/ Mark F. Adams*
MARK F. ADAMS
Attorneys for Defendant
Christopher Black